

§ 80.335

40 CFR Ch. I (7–1–08 Edition)

provided in § 80.46(a)(1) or one of the alternative test methods listed in § 80.46(a)(3) to measure the sulfur content of gasoline they produce or import.

(2) Except as provided in § 80.350 and in paragraph (c)(1) of this section, any ASTM sulfur test method for liquefied fuels may be used for quality assurance testing under § 80.400, or to determine whether gasoline qualifies for a S-RGAS downstream standard, if the protocols of the ASTM method are followed and the alternative method is correlated to the method provided in § 80.46(a)(1).

(d) *Test method for sulfur in butane.* (1) Refiners and importers shall use the method provided in § 80.46(a)(2) to measure the sulfur content of butane when the butane constitutes a batch of gasoline.

(2) Except as provided in paragraph (d)(1) of this section, any ASTM sulfur test method for gaseous fuels may be used for quality assurance testing under §§ 80.340(b)(4) and 80.400, if the protocols of the ASTM method are followed and the alternative method is correlated to the method provided in § 80.46(a)(2).

(e) *Incorporations by reference.* ASTM standard practices D 4057–95, D 4177–95 and D 5842–95 are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428. Copies may be inspected at the Air Docket Section (LE-131), room M-1500, U.S. Environmental Protection Agency, Docket No. A-97-03, 1200 Pennsylvania Ave., NW., Washington, DC 20460, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19308, Apr. 13, 2001; 68 FR 57820, Oct. 7, 2003]

§ 80.335 What gasoline sample retention requirements apply to refiners and importers?

(a) *Sample retention requirements.* Beginning January 1, 2004, or January 1 of the first year allotments or credits are generated under §§ 80.275 and 80.305, whichever is earlier, any refiner or importer shall:

(1) Collect a representative portion of each sample analyzed under § 80.330(a), of at least 330 ml in volume;

(2) Retain sample portions for the most recent 20 samples collected, or for each sample collected during the most recent 21 day period, whichever is greater, not to exceed 90 days for any given sample;

(3) Comply with the gasoline sample handling and storage procedures under § 80.330(b) for each sample portion retained; and

(4) Comply with any request by EPA to:

(i) Provide a retained sample portion to the Administrator's authorized representative; and

(ii) Ship a retained sample portion to EPA, within 2 working days of the date of the request, by an overnight shipping service or comparable means, to the address and following procedures specified by EPA, and accompanied with the sulfur test result for the sample determined under § 80.330(a).

(b) *Sample retention requirement for samples subject to independent analysis requirements.* (1) Any refiner or importer who meets the independent analysis requirements under § 80.65(f) for any batch of reformulated gasoline or RBOB will have met the requirements of paragraph (a) of this section, provided the independent laboratory meets the requirements of paragraph (a) of this section for the gasoline batch.

(2) For samples retained by an independent laboratory under paragraph (b) of this section, the test results required to be submitted under paragraph (a) of this section shall be the test results determined under § 80.65(e).

(c) *Sampling compliance certification.* Any refiner or importer shall include with each annual report filed under § 80.370, the following statement, which must accurately reflect the facts and

must be signed and dated by the same person who signs the annual report:

I certify that I have made inquiries that are sufficient to give me knowledge of the procedures to collect and store gasoline samples, and I further certify that the procedures meet the requirements of the ASTM procedures required under 40 CFR 80.330.

(d) Prior to January 1, 2004, for purposes of complying with the requirements of this section, refiners who analyze composited samples under § 80.330(a)(3) must retain portions of the composited samples. Portions of samples of each batch comprising the composited samples are not required to be retained.

(e) For purposes of complying with the requirements of this section for RBOB, a sample of each RBOB batch produced plus a sample of the ethanol used to conduct the handblend testing pursuant to § 80.69 must be retained.

[65 FR 6823, Feb. 10, 2000, as amended at 66 FR 19309, Apr. 13, 2001]

§ 80.340 What standards and requirements apply to refiners producing gasoline by blending blendstocks into previously certified gasoline (PCG)?

(a) Any refiner who produces gasoline by blending blendstock into PCG must meet the requirements of § 80.330 to sample and test every batch of gasoline as follows:

(1)(i) Sample and test to determine the volume and sulfur content of the PCG prior to blendstock blending.

(ii) Sample and test to determine the volume and sulfur content of the gasoline subsequent to blendstock blending.

(iii) Calculate the volume and sulfur content of the blendstock, by subtracting the volume and sulfur content of the PCG from the volume and sulfur content of the gasoline subsequent to blendstock blending. The blendstock is a batch for purposes of compliance calculations and reporting. For purposes of this paragraph (a), compliance with the applicable cap standard under § 80.195(a) shall be determined based on the sulfur content of the gasoline subsequent to blendstock blending.

(2) In the alternative, a refiner may sample and test each batch of blendstock when received at the refinery to determine the volume and sulfur

content, and treat each blendstock receipt as a separate batch for purposes of compliance calculations for the annual average sulfur standard and for reporting. This alternative applies only if every batch of blendstock used at a refinery during an averaging period has a sulfur content that is equal to, or less than, the applicable per-gallon cap standard under §§ 80.195 or 80.216.

(b) Refiners who blend only butane into PCG may meet the sampling and testing requirements by using sulfur test results of the butane supplier, provided that the following requirements are also met:

(1) The sulfur content of the butane received from the butane supplier must not exceed the following sulfur standards on a per-gallon basis as follows:

(i) 120 ppm in 2004, and 30 ppm for 2005 and any subsequent year;

(ii) Except that the per-gallon sulfur content of butane blended to PCG that is designated as GPA gasoline shall not exceed 150 ppm from January 1, 2004, through December 31, 2006.

(2) The refiner obtains test results from the butane supplier that demonstrate that the sulfur content of each load of butane supplied does not exceed the applicable per-gallon sulfur standard under paragraph (b)(1) of this section through test results of samples of the butane contained in the storage tank from which the butane blender is supplied.

(i) Testing for the sulfur content of the butane by the supplier must be subsequent to each receipt of butane into the supplier's storage tank, or the testing must be immediately before transfer of butane to the butane blender.

(ii) The testing must be performed by the method specified in § 80.46(a)(2) or by the alternative method specified in § 80.46(a)(4).

(iii) The butane blender must obtain a copy of the butane supplier's test results, at the time of each transfer of butane to the butane blender, that reflect the sulfur content of each load of butane supplied to the butane blender.

(3) The sulfur content and volume of each batch of gasoline produced is that of the butane the refiner blends into gasoline for purposes of calculating compliance with the standards in §§ 80.195 and 80.216.